

8. The application of Eicher was not filed for the purpose of reaching or carrying out a settlement.

Dated: June 1, 1992

0745/ecedecl.dec

Elaine C. Eicher  
Elaine C. Eicher, President  
Eicher Communications, Inc.

### **APPENDIX 3**

### CERTIFICATE OF COUNSEL

I, Stephen Diaz Gavin, do hereby certify that the following is true and correct:

1. I am a partner in the Law Firm of Besozzi & Gavin, 1901 L Street, N.W., Suite 200, Washington, D.C. 20036 (the "Law Firm").

2. The Law Firm is counsel of record to Eicher Communications, Inc. ("Eicher"), an applicant for a new FM station at Bethany Beach, Delaware, FCC File No. BPH-910213MF.

3. The Law Firm has represented Eicher at all times since December 1990 in connection with the filing of the Bethany Beach application.

4. The Law Firm has issued bills to Eicher totalling in excess of \$9,000.00 for legal fees incurred and cash disbursements made by the Law Firm since January 1991 solely in connection with the Bethany Beach application and the prosecution of the application.

5. In addition, Eicher has paid the application and hearing designation fees charged by the Commission.

6. The Settlement Agreement between Eicher and Jeffery Scott provides for a reimbursement of expenses up to \$18,000.00. As set forth in the "Declaration of Elaine C. Eicher," such a payment will reimburse Eicher for substantially less than the legitimate and prudent expenditures incurred by Eicher in preparing, filing and prosecuting its application for the Bethany Beach station.

7. I hereby certify that out of the \$18,000.00 in expenses, Eicher has incurred legal fees in excess of \$9,000.00 since the

preparation of the filing of its application. On behalf of Eicher's Bethany Beach Application, I myself or other lawyers in this Law Firm performed the following beginning in December 1990:

a. Reviewed the Bethany Beach allocation with Eicher's principal, Elaine C. Eicher, including impact of Ocean City, Maryland allocation.

b. Assisted in the drafting of portions of the FCC Form 301 Application, including the Exhibits to the Form 301, as well as the supporting financial documentation for the application's financial certification.

c. Reviewed the competing application of Jeffery Scott ("Scott") and the initial amendment thereto, as well as consultations with Eicher's consulting engineer regarding a petition to deny the Scott application.

d. Revise/edit Affidavit of Eicher's consulting engineer, for use with petition to deny Scott application.

e. Draft/edit Petition to Deny the Scott application, including consultations with the client and consulting engineer.

f. Review Scott opposition to Petition to Deny to prepare to prepare and file Reply to Opposition to Petition to Deny; consultations with consulting engineer and client regarding the Reply.

g. Draft/edit Reply to Opposition to Petition to Deny, as well as Opposition to Scott June 1991 Petition for Leave to Amend.

h. Meetings to negotiate July 1991 settlement agreement between Eicher and Scott, as well as drafting/revision of settlement agreement and Joint Request for Approval of Settlement Agreement.

i. Review of May 1992 Hearing Designation Order, consultations with counsel for Scott and client regarding response to HDO and a conference with the Chief Administrative Law Judge and counsel for Scott and the Chief, Hearing Branch.

j. Negotiation of revised Settlement Agreement in May 1992, as well as preparation/revision of necessary papers to implement settlement, including Consulting

Agreement.

8. I certify that the fees for these matters alone exceeded \$9,000.00.

Dated:

June 2, 1992

  
\_\_\_\_\_  
Stephen Diaz Gavin

#### **APPENDIX 4**

### DECLARATION

Jeffery Scott, under penalty of perjury, states as follows:

1. I am an individual applicant in MM Docket No. 92-106 for a new FM station at Bethany Beach, Delaware on Channel 278A, FCC File No. BPH-910213ME.

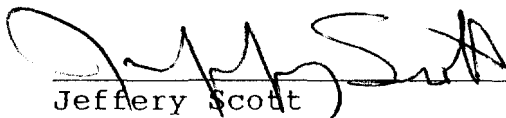
2. I have entered into an agreement with Eicher Communications, Inc. ("Eicher"), an applicant for the same facilities, to settle the Bethany Beach proceeding. That agreement contemplates dismissal of Eicher's application. In consideration therefor, I shall reimburse Eicher's reasonable and prudent expenses incurred in the prosecution of its application in an amount not to exceed \$18,000. In addition, I have agreed to employ Eicher's President and sole stockholder, Elaine C. Eicher, as a consultant pursuant to a written Consulting Agreement for a period of one year for a total of \$15,000. The Consulting Agreement is a bona fide agreement. The amounts to be paid thereunder are based upon Elaine Eicher's abilities as a certified public accountant who is experienced in business planning and upon the amount and length of time she has agreed to work under the agreement.

3. Except as set forth in the Settlement Agreement, I have not paid or promised to pay any consideration to Eicher or its principal in connection with the Settlement Agreement.

4. Approval of the Settlement Agreement is in the public interest, for the reasons set forth therein. It will

conserve the resources of the parties and the Commission and expedite the inauguration of radio service to Bethany Beach.

5. I did not file my application for the purpose of reaching or carrying out the Settlement Agreement.

  
\_\_\_\_\_  
Jeffery Scott

Date: June 2, 1992

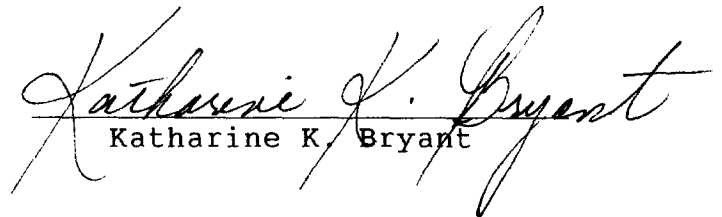


CERTIFICATE OF SERVICE

I, Katharine K. Bryant, do hereby certify that a copy of the foregoing "Joint Request for Approval of Settlement Agreement" was mailed, United States first-class mail, postage prepaid, this 3rd day of June, 1992 to the following:

\*Honorable Richard L. Sippel  
Administrative Law Judge  
Federal Communications Commission  
2000 L Street, N.W.  
Room 214  
Washington, D.C. 20554

\*Larry Miller, Esq.  
Hearing Branch  
Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W.  
Suite 7212  
Washington, D.C. 20554

  
Katharine K. Bryant

\*By Hand Delivery